UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF GEROW D. BRILL
20 OAKMONT CIRCLE
NEW FREEDOM, PA 17349-832

COPY MAILED

FEB 01 2010

In re Application of   :
AYLING, LAURENCE JOHN   :
Application No. 10/576,893   :   DECISION ON PETITION
Filed: April 24, 2006   :
Attorney Docket No. 593-PCT-US :

This is a decision on: (1) the petition under the unintentional
provisions of 37 CFR 1.137(b), filed December 16, 2009, to revive
the above-identified application; and (2) the petition to the
Director of the United States Patent and Trademark Office
(Director) under either 37 CFR 1.182 (i.e., questions not
specifically provided for) or 37 CFR 1.183 (i.e., suspension of
rules) to waive the requirement for payment of the petition fee
covered by the petition under 37 CFR 1.137(b) for revival of an
application for patent abandoned unintentionally.

The petition under 37 CFR 1.137(b) for revival of an application
for patent abandoned unintentionally is **GRANTED**.

The petition to the Director of the United States Patent and
Trademark Office (Director) under either 37 CFR 1.182 (i.e.,
questions not specifically provided for) or 37 CFR 1.183 (i.e.,
suspension of rules) to waive the requirement for payment of the
petition fee covered by the petition under 37 CFR 1.137(b) for
revival of an application for patent abandoned unintentionally is
DISMISSED.

The application became abandoned for failure to timely pay the
issue and publication fees on or before August 21, 2008, as
required by the Notice of Allowance and Fee(s) Due, mailed May
21, 2008, which set a non-extendable statutory period for reply
of three (3) months. Accordingly, the application became
abandoned as of midnight on August 21, 2008.

The petition for revival of an application for patent abandoned
unintentionally satisfies the requirements of 37 CFR 1.137(b) in
that petitioner has supplied (1) the reply in the form of the
payment of the non-small entity issue and publication fees of

$1,810.00, (2) the non-small entity petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

In response to the petition to the Director under either CFR 1.182 or 37 CFR 1.183 requesting waiver of payment of the petition fee under 37 CFR 1.137(b), it is noted that on January 31, 2008, Applicant's attorney filed a paper entitled "Change of Attorney or Agent's Address in Application" in which Applicant's attorney indicated his Customer No. was "76,891". Accordingly, the United States Patent and Trademark Office changed Applicant's correspondence address to the address associated with Customer No. 76,891. The Notice of Allowance and Fee(s) Due, mailed May 21, 2008, went to the address associated with Customer No. 76,891 as instructed by Applicant's attorney. Applicant's attorney argues that "[i]t is Applicant's opinion that when the person completing the Notice of Allowance and Fee(s) form had the incorrect address come up (Sardano) he or she did not verify a match between Customer Number address the correct address." However, it is noted that the customer number on the "Change of Attorney or Agent's Address in Application" form filed January 31, 2008 controls what address is associated with the present application, not any address or customer number on other correspondence sent to the United States Patent and Trademark Office. Since it does not appear that the United States Patent and Trademark Office mailed the Notice of Allowance and Fee(s) Due to the wrong address, petitioner is being charged the petition fee under 37 CFR 1.17(m) of $1,620.00 and the petition fee under 37 CFR 1.17(f) of $400.00.

Telephone inquiries concerning this decision should be directed to Anthony Knight at (571)-272-3687.

This application is being referred to Technology Center AU 3672 for appropriate action by the Examiner in the normal course of business on the reply received.

Anthony Knight
Supervisor
Office of Petitions

2